REMARKS

The applicant thanks the examiner for the telephone conference of January 15, 2003.

This response is filed with a Request for Continued Examination. The applicant's remarks are preceded by the examiner's comments in small bold type.

4. Claims 113-119 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Claims 113-119 depend from cancelled claims and are therefore indefinite.

Claims 113-119 are amended.

5. Claim 163 [*sic*] is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "as a function of how recent interactions are" is confusing.

The applicant infers that the examiner is referring to claim 165 and not claim 163. Claim 165 includes the phrase "as a function of how recent interactions are." Claim 165 has been amended.

The following are the examiner's comments regarding claim 48:

As per Claim 48.
Eckert Jr. et al ('501) discloses:
units of a commodity that are used by respective users in different locations, see figure 1;
a user interface which is part of each of the units of the commodity and provides a medium for two-way local interaction between one of the users and the corresponding units of the commodity for generating information about use of the unit of the commodity by a user, see figure 2;
a communication element that is associated with each of the units of the commodity and carries results of the two-way local interaction from each of the units of the commodity to a central location, see figure 6 (106);
software that manages the interactions of the users in different locations and collection of the results of the interactions at the central location, see figure 6 (102, 103).

Eckert Jr. et al ('501) does not disclose the user provides information about his perception of the commodity.
This limitation is seen to be non-functional descriptive material which will not distinguish the invention from the prior art in terms of patentability, see In re Gulack 703 F.2d 1381, 1385, 217 USPQ 401, 101 (Fed, Cir. 1983).

Furthermore, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). Ex parte Masham, 2 USPQ2d 1647 (Bd Pat. App. & Inter. 1987).

Therefore it would have been obvious to one of ordinary skill at the time the invention was made to collect data such as user perceptions regarding the commodity as an extension of known information gathering techniques.

Claim 48 has been amended. The commodities of the system of claim 48 include a user interface that is configured to "elicit, from a user, information about his perception of the commodity," and a memory that stores "elicited information about user perception of the commodity." These two structural elements are not disclosed in the reference cited by the examiner.

Also, information about user perception of the commodity is functional with respect to the elements of the claim because, for example, the system enables the user to respond to questions about his perception of the commodity while the user is using the commodity or is near the commodity. Thus, the information about user perception of the commodity is functional material that distinguishes the system of claim 48 from the reference cited by the examiner.

As per Claim 127.

Applicant argues that the Eckert Jr et al ('501) does not disclose storing a probe and sending probes to unit s of the commodity.

Examiner disagrees. The modify reset flag with the Access Code is seen as a stored probe, which monitors the meter's NVM strength and other monitored events and reports to the data center. Further information probes elicit from the user of the meter the amount of refill desired, sent from the data center, see column 5, lines 59-68 or locally, see column 6, lines 46-50.

As per claim 127.
Eckert Jr. et al ('501) discloses:

units of a commodity that are used by respective users in different locations, see figure 1;

a user interface which is part of each of the units of the commodity and provides a medium for two-way local interaction between one of the users and the corresponding units of the commodity for generating information about use of the unit of the commodity by a user, see figure 2 and column 5, lines 13-68;

a communication element that is associated with each of the units of the commodity and carries results of the two-way local interactions from each of the units of the commodity to a central location, see figure 6 (106);

software that manages the interactions of the users in different locations and collection of the results of the interactions at the central location, see figure 6 (102, 103) and sends probes to each of the units of the commodity, see column 1, lines 52-61, column 11, lines 5-24, column 5, lines 59-68 and column 6, lines 46-50.

Claim 127 has been amended. The units of commodity in claim 127 include a memory "that stores probes that include information that directs the user interface's interaction with respective users." The system of claim 127 also includes software that sends the probes to each of the units of the commodity.

Eckert does not teach or suggest a commodity with a memory that stores such probes nor software that sends such probes to each of the units of the commodity. The examiner maintains that the modify reset flag of Eckert is a stored probe. However, the modify reset flag does not include information that directs a user interface's interaction with respective users. Rather, the modify reset flag is an indicator that is activated when the postage meter's non-volatile memory (NVM) strength fails (see column 10, line 17). The state of the modify reset flag depends on an intrinsic property of the unit of commodity. This flag does not direct a user interface's interaction with respective users.

The examiner cites column 5, lines 59-68 of Eckert which state:

> In the charging mode, which may be attained by means of an internal switch lock (not shown) controlled by the key 48, an "enter amount" position as shown by such a message at the window 50, may enable entry of recharging value registers of the meter 10 by way of the keyboard 17. Subsequent turning of the switch 46 to an "enter combination" position, as indicated in the window 50, while entering a correct coded combination in the keyboard 17, enables the recharging mode of the meter to be effective. Returning the key 48 to the "operate" position enables the resumption of the use of the meter 10 for printing postage.

The "enter amount" and "enter combination" queries described above are not stored in memory nor sent by software to each of the units of the commodity. Rather, the text for these queries is presumably pre-printed on a cylinder that is controlled by the key 48. The query appears on the display 50 when the key 48 is manually turned.

The examiner also cites column 6, lines 46-50 of Eckert which state:

> The meter may also be provided with a "privileged" switch 54 that is normally held in the operate position by a seal. The operation of the switch, following the cutting of the seal, enables the recharging of the meter by post office personnel in a nonremote charging mode.

Here, Eckert describes a manual operation in which a post office worker manually breaks a seal to turn the "privileged" switch 54 and recharge the meter in a "nonremote" charging mode. This passage does not describe probes that include information that directs the user interface's interaction with respective users.

In Fig. 6, Eckert describes sending a reset combination from a data center 102 to a postage meter 10. However, the reset combination differs from the probes of claim 127 since the reset combination does not include information that directs a user interface's interaction with respective users.

The applicant does not concede any positions of the examiner that are not expressly addressed above, nor does the applicant concede that there are not other good reasons for patentability of the presented claims or other claims.

Applicant asks that all claims be allowed. Enclosed is a $9 check for excess claim fees and a $205 check for the Petition for Extension of Time fee. Please apply any other charges or credits to Deposit Account No. 06-1050, referencing attorney docket number 03058-004005.

Respectfully submitted,

Date: 4/2/3

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